

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
ASTELLAS INSTITUTE FOR REGENERATIVE)	
MEDICINE, and STEM CELL & REGENERATIVE)	
MEDICINE INTERNATIONAL, INC.,)	
)	
Plaintiffs,)	C.A. NO. 1:17-cv-12239 ADB
)	
v.)	
)	
IMSTEM BIOTECHNOLOGY, INC., XIAOFANG)	
WANG, and REN-HE XU,)	
)	
Defendants.)	
_____)	

**DEFENDANTS’ MOTION TO KEEP TRIAL OPEN
TO FACILITATE WITNESS TESTIMONY**

Pursuant to Fed.R.Civ.P. 7 and 44.1, as well as L.R. 7.1 and 40.3, Defendants Imstem Biotechnology, Inc. (“Imstem”), Xiaofang Wang (“Wang”), and Ren-He Xu (“Xu”) (collectively “Defendants”) seek an order keeping the September 14, 2020 start date of the upcoming bench trial (Dkt. 210), but leaving the trial open until such time that Dr. Renhe Xu (a named Defendant) and Dr. Michael Men (CEO of Defendant Imstem) – who are presently living in Macau and China, respectively – can testify. Despite Defendants’ efforts to facilitate trial in the midst of the COVID-19 pandemic, it has come to the Defendants’ attention that Chinese and Macau law bars Drs. Xu and Men from testifying in the manner the parties discussed at the June 10, 2020 status conference (*i.e.*, via video). No fair trial can take place until Drs. Xu and Men have the ability to reach a country that permits video testimony. Defendants therefore seek an order keeping trial open until Chinese and Macau travel restrictions ease such that Drs. Xu and

Men have the ability to reach a country that permits video testimony and return safely to their homes.

Concurrently herewith, Defendants are filing a memorandum of law and supporting declaration, which is incorporated herein by reference.

July 20, 2020

Respectfully submitted,

IMSTEM BIOTECHNOLOGY, INC., REN-
HE XU and XIAOFANG WANG,

By their Attorneys,

/s/ Timothy Shannon

Timothy R. Shannon, MA Bar # 655325

Martha C. Gaythwaite, MA Bar # 187650

VERRILL DANA LLP

One Portland Square

Portland, Maine 04101

(207) 774-4000

tshannon@verrill-law.com

mgaythwaite@verrill-law.com

Benjamin M. Stern, MA Bar # 646778

VERRILL DANA LLP

One Federal Street, 20th Floor

Boston, Massachusetts 02110

(617) 309-2600

bstern@verrill-law.com

Attorneys for Defendants

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1

I hereby certify that, on July 10 and 17, 2020, counsel for Defendants conferred by telephone with Counsel for Plaintiffs. Plaintiffs indicated they oppose the relief sought in the Motion.

Dated: July 20, 2020

/s/ Timothy Shannon

Timothy R. Shannon

CERTIFICATE OF SERVICE

I hereby certify that on July 20, 2020, I caused a true copy of the foregoing document to be served upon all counsel of record via the Court's CM/ECF electronic filing system.

Charles H. Sanders (BBO#646740) (via email; Charles.Sanders@lw.com)
LATHAM & WATKINS LLP
John Hancock Tower, 27th Floor
200 Clarendon Street
Boston, MA 02116
Tel: (617) 948-6022

Michael A. Morin (via email; Michael.Morin@lw.com)
David P. Frazier (via email; David.Frazier@lw.com)
Rebecca L. Rabenstein (via email; Rebecca.Rabenstein@lw.com)
555 Eleventh Street, N.W., Ste. 1000
Washington, DC 20004
Tel: (202) 637-2200; Fax: (202) 637-2201

/s/ Timothy Shannon

Timothy R. Shannon